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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

GLOBAL PANDA ENTERTAINMENT

LLC, a Nevada Limited Liability Company;

and JIAOXUAN INVESTMENT, LTD, a

foreign limited company and memb

Case No.:

Plaintiffs

COMPLAINT

V

FAI WONG a/k/a HUI WANG

YAN WONG and KAI WING,
individually and as member of Global Panda

Entertainment LLC ; and DOES 1 through

inclusive; and ROES 11 through 20,

Defendants

COMES NOW, Plaintiffs GLOBAL PANDA ENTERTAINMENT, LLC, and JIAXUAN

INVESTMENT, LTD., by and through counsel of record Matthew O. Callister, Esq., and Mitchell S.

Bisson, Esq. of the law firm of Callister & Associates and hereby files this Complaint against Defendant.

EAI WONG aka HUI WANG ("Wong") and DOE and ROE Defendants and alleges as follows:

28

PARTIES AND JURISDICTION

1. Plaintiff Global Panda Entertainment, LLC (hereinafter “GPE”), is a Nevada Limited Liability
2. Company doing business in Clark County, Nevada.

3. Plaintiff Jiaxuan Investment, LTD (hereinafter “Jiaxuan”) is a foreign corporation that holds a
4. 60% membership interest in GPE. Zhongmin Xu (hereinafter “Xu”) is a representative of Jiaxuan
5. and is authorized to act on its behalf.

6. Upon information and belief, Defendant Fai Wong aka Hui Wang (hereinafter “Wong”) is and
7. was a resident of Clark County, Nevada and holds a 20% membership interest in GPE.

8. The true names and capacities of DOES 1 through 10, inclusive, and ROES 11 through 20,
9. inclusive, are unknown to the Plaintiff at this date; said Defendants are named herein, but may
10. be responsible or liable to the Plaintiff by virtue of the actions hereinafter described and Plaintiff
11. reserves its right to amend the Complaint to insert any additional charging allegations, together
12. with their true identities and capacities, when the same have been ascertained.

13. This lawsuit involves a series of transactions, schemes, and illicit conduct occurring in Clark
14. County, Nevada.

15. This Court has personal jurisdiction over the Defendants.

16. This Court is an appropriate venue for this civil action.

17. **FACTUAL ALLEGATIONS**

18. In or around October 2013, Xu (on behalf of Jiaxuan), An Zhao, and Wong entered into an
19. agreement for the operation of Global Panda Entertainment LLC, in which Jiaxuan would hold
20. a 60% membership interest in GPE, Zhao would hold a 20% membership interest in GPE, and
21. Wong would hold a 20% membership interest in GPE.

22. Each member would benefit from the profits of the Panda Show and be responsible for the losses

1 of the Panda Show according to the terms of the Panda Show Project Cooperation Agreement
2 (hereinafter “Panda Show Agreement”).
3

4 10. The purpose of GPE was to promote Chinese culture and expand the influence of Chinese culture
5 abroad.
6

7 11. GPE sought to fulfill its goal by performing a production called the Panda Show at the Palazzo
8 Theater of the Venetian Resort Hotel & Casino in Las Vegas, Nevada.
9

10 12. The Panda Show was a Chinese Kung Fu show with Chinese characteristics and international
11 concepts which would be suitable for international audiences and would generate a strong
12 response from its audience. The Panda Show integrated performance forms including opera,
13 acrobatics, dance, aerial skills, and talk shows with choreography, lighting, sound, and costume.
14 The entire production would last approximately 80 minutes.
15

16 13. According to the Panda Show Agreement signed by Jiaxuan, Zhao, and Wong, Jiaxuan would
17 be the principle investor, Zhao would be responsible for all production of the show including
18 stage production, choreography, design, music, costumes, modeling, and every other aspect of
19 the performance of the show, and Wong would be responsible for the managerial aspects of the
20 show in the United States and marketing.
21

22 14. Further, the Panda Show Agreement explicitly stated that the copyrights for the show would be
23 an asset and property of Beijing Jiaxuanpaina Culture Media Co., Ltd.
24

25 15. Additionally, the Trademark and other associated intellectual property related to the Panda Show
26 is an asset and property of GPE.
27

28 16. Beginning in or around September 05, 2014, Defendant Wong began taking multiple
unauthorized actions that have severely harmed the interests and legal rights of GPE and its other
two members, Jiaxuan and Zhao.

- 1 17. In or around September 05, 2014, Defendant Wong, without authorization, consent or knowledge
2 of the other members of GPE, unilaterally filed an Amended List of Managers or Managing
3 Members with the Nevada Secretary of State changing the list of managers/members for GPE
4 from: (1) himself, (2) Li Wu (on behalf of Jiaxuan), and (3) Yenxuan Zhao (on behalf of An
5 Zhao), to: (1) himself and (2) Qun Yang.
- 6
- 7 18. The aforementioned amendment was fraudulently made as Defendant did not have the
8 permission, consent, or authorization of the Plaintiffs, as required by the structure of GPE and
9 the Panda Show Agreement.
- 10
- 11 19. Further, on or about October 7, 2014, Defendant Wong submitted an application to the United
12 States Patent and Trademark Office (“USPTO”), using GPE funds, seeking to obtain a trademark
13 for the Panda Show mark in his individual name rather than in the name of GPE.
- 14
- 15 20. Defendant Wong falsely stated in his USPTO application that he had individually first put the
16 Panda Show Trademark into commercial use on January 07, 2014; however, said representation
17 on Defendant Wong’s application is false because any first commercial use of the Panda Show
18 mark was by GPE as per the parties’ agreement.
- 19
- 20 21. The aforementioned application to the USPTO was false and fraudulently made by Defendant
21 Wong for two reasons. First, Defendant lacked permission of the Plaintiffs, as required by the
22 structure of GPE and the Panda Show Agreement. Second, the Trademark related to the Panda
23 Show belongs to GPE, *not* Wong.
- 24
- 25 22. Additionally, Defendant Wong began advertising in the Las Vegas Chinese News Network (a
26 Las Vegas-based Chinese newspaper) for a new Panda Show beginning in March 2015. This
27 promotion was made without any knowledge or consent from GPE or its other members.
- 28 23. Further, the aforementioned advertisement utilized GPE’s intellectual property and has caused

1 confusion in commerce concerning the origins of the Panda Show and the ownership of all
2 associated intellectual property.

3 24. As a result of Defendant Wong's actions, Plaintiffs have been damaged in excess of \$10,000.00.
4

5 **FIRST CLAIM FOR RELIEF**
6 *(Breach of Contract)*

7 25. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
8 allege and aver as follows:

9 26. Plaintiffs and Defendant entered into a valid and enforceable contract when they executed the
10 Panda Show Project Cooperation Agreement, which stated specific duties and obligations of the
11 respective parties.

12 27. Defendant Wong breached the contract when he altered the list of managers and members with
13 the Nevada Secretary of State without authorization, filed for a Federal trademark with the
14 USPTO in his own individual name (using GPE funds), and began advertising for a new Panda
15 Show without the knowledge or consent of Plaintiffs.

16 28. Indeed, Defendant's obligations to seek approval of all members was reaffirmed during several
17 member meetings, as well as the Panda Show Agreement.

18 29. As a direct and proximate result of Defendant's breach, Plaintiffs have been damaged in excess
19 of \$10,000.00.

20 30. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to
21 prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.

22
23 **SECOND CLAIM FOR RELIEF**
24 *(Breach of Duty of Good Faith and Fair Dealing)*

25 31. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further

allege and aver as follows:

32. Defendant Wong owed a duty of good faith to Plaintiffs.

33. Defendant breached his duty in a manner that was unfaithful to the Panda Show Project Cooperation Agreement when he altered the list of managers and members with the Nevada Secretary of State without authorization, filed for a Federal trademark with the USPTO in his own individual name (using GPE funds), and began advertising for a new Panda Show without the knowledge or consent of Plaintiffs.

34. As a direct and proximate result of Defendant's breaches, Plaintiffs' justified expectations were denied and they have suffered damages in an amount in excess of \$10,000.

35. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.

THIRD CLAIM FOR RELIEF
(Breach of Fiduciary Duty)

36. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
allege and aver as follows:

37. Pursuant to the Panda Show Agreement, and based on his role as a member and former officer of GPE, Defendant Wong owed a fiduciary duty to the Plaintiffs.

38. The fiduciary duty between partners is one of full and frank disclosure of all relevant information and of loyalty.

39. Defendant breached his fiduciary duties to Plaintiffs when he altered the list of managers and members with the Nevada Secretary of State without authorization, filed for a Federal trademark with the USPTO in his own individual name (using GPE funds), and began advertising for a new Panda Show without the knowledge or consent of Plaintiffs.

1 40. As a direct and proximate result of Defendant's breach, Plaintiffs have been damaged in excess
2 of \$10,000.00.

3 41. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to
4 prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.
5

6 **FOURTH CLAIM FOR RELIEF**
7 *(Violation of NRS 225.084)*

8 42. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
9 allege and aver as follows:

10 43. Defendant Wong violated NRS 225.084 when he, in bad faith, wilfully filed an amendment to
11 the list of managers or members with the Nevada Secretary of State without any authorization
12 or consent of Plaintiffs which removed Plaintiffs from the list and added Qun Yang.
13

14 44. Said amendment was fraudulent because it did not reflect the true managers and members of
15 GPE and was filed without any authorization.
16

17 45. Defendants actions were made with the purpose to harass or defraud Plaintiffs.

18 46. As a direct and proximate result of Defendant's actions, Plaintiffs have suffered damages in an
19 amount in excess of \$10,000.

20 47. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to
21 prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.
22

23 **FIFTH CLAIM FOR RELIEF**
24 *(Trademark Infringement, 15 USC 1125(a) & Nevada Common Law)*

25 48. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
26 allege and aver as follows:
27

28 49. Plaintiffs own a legally valid and protectable trademark for "Panda!", the Panda Show "mark."

- 1 50. Plaintiffs' trademark is distinct.
- 2 51. As a result of Defendant's advertisements in the Las Vegas Chinese News Network, and other
3 conduct as alleged above, he has created a likelihood of confusion as to the origins of the Panda
4 Show.
- 5 52. Plaintiffs' trademark has built a following within the interstate commerce of Chinese culture
6 productions and has therefore garnered strength for their "Panda!" mark.
- 7 53. Defendant has purported to engage in the exact same commercial field as Plaintiffs using the
8 exact same mark as Plaintiffs.
- 9 54. Defendant has taken these actions in order to confuse the market and pass off the Panda Show
10 as his individual property rather than that of GPE.
- 11 55. Defendant's actions have caused actual confusion in the marketplace as he has advertised for a
12 new Panda show in a Chinese publication with substantial Chinese clientele.
- 13 56. The reader of the Chinese publication is unlikely to avoid confusion as the advertisement utilizes
14 the exact same mark as that of Plaintiffs.
- 15 57. As a direct and proximate result of Defendant's infringement, Plaintiffs have suffered substantial
16 harm to their business reputation and their mark. Said damages are in excess of \$10,000.00.
- 17 58. On information and belief, Defendant, utilizing Plaintiffs' mark, has had ongoing negotiations
18 with Las Vegas businesses for a Panda Show without the permission or knowledge of Plaintiffs.
- 19 59. On information and belief, Defendant has knowingly passed off Plaintiffs' service as his own
20 while making false representations of source, approval, affiliation, and connection with the
21 purpose to deceive consumers.
- 22 60. Defendant has actual knowledge of GPE's ownership of the service mark and has undergone
23 infringing activity to detriment of GPE and its other members, Jiaxuan and Zhao.

61. Defendant used Plaintiffs' mark with the knowledge of its goodwill and intending to use its
goodwill to promote his own product.

62. As a result of Defendant's infringing actions, Plaintiffs have suffered damages in an amount in excess of \$10,000.00.

63. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.

64. As a result of Defendant's actions, Plaintiffs are entitled to injunctive relief in order to prevent any further harm to their property.

SIXTH CLAIM FOR RELIEF

(False Designation of Origin, 15 USC sec. 1125(a) & Nevada Common Law)

65. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
allege and aver as follows:

66. Defendant has falsely designated himself as the origin of the Panda Show, despite actual knowledge as to GPE's ownership, with the intent to deceive consumers.

67. Defendant's false designation has had a substantial effect on interstate commerce as he has placed the false designation into a popular Las Vegas-based Chinese publication.

68. This false designation has created a likelihood of confusion as the advertisement claimed to be putting on a new Panda Show, using the Plaintiffs' mark, beginning in March 2015.

69. Defendant made such intentional actions in order to use Plaintiffs' goodwill to his individual benefit and to the detriment of Plaintiffs.

70. As a result of Defendant's infringing actions, Plaintiffs' have suffered damages in an amount in excess of \$10,000.

71 As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to

1 prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.

2 72. As a result of Defendant's actions, Plaintiffs are entitled to injunctive relief in order to prevent
3 any further harm to their property.
4

5 **SEVENTH CLAIM FOR RELIEF**
6 *(Unfair Competition, 15 USC 1125(a))*

7 73. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
8 allege and aver as follows:
9

10 74. As a result of Defendant's advertisements in the Las Vegas Chinese News Network, and other
11 conduct as alleged above, he has created a likelihood of confusion as to the origins of the Panda
12 Show.

13 75. The Panda Show has built a following within the interstate commerce of Chinese culture
14 productions and has therefore garnered strength for their "Panda!" mark.

15 76. Defendant has purported to engage in the exact same commercial field as Plaintiffs using words,
16 terms, names, symbols, and/or devices as Plaintiffs, in interstate commerce, which is likely to
17 cause confusion as to source, sponsorship, or association of the Panda show.

18 77. Defendant has taken these actions in order to confuse the market and pass off the Panda Show
19 as his individual property rather than that of GPE.

20 78. Defendant's actions have caused actual confusion in the marketplace as he has advertised for a
21 new Panda show in a Chinese publication with substantial Chinese clientele.

22 79. The reader of the Chinese publication is unlikely to avoid confusion as the advertisement utilizes
23 the exact same mark, name, symbol, etc. as that of Plaintiffs.

24 80. As a direct and proximate result of Defendant's conduct, Plaintiffs have suffered substantial
25 harm to their business reputation and have suffered damages in excess of \$10,000.00.
26
27
28

1 81. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to
2 prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.
3
4 82. As a result of Defendant's actions, Plaintiffs are entitled to injunctive relief in order to prevent
5 any further harm to their property.

EIGHTH CLAIM FOR RELIEF
(Consumer Fraud - Deceptive Trade Practices)

11 84. Defendant's advertisements in the Las Vegas Chinese News Network, and other conduct as
12 alleged above, violates the Nevada Deceptive Practices Act and constitutes "Consumer Fraud"
13 under Nev. Rev. Stat. § 41.600.

14
15 85. In particular Defendant's deceptive conduct breached his obligations under Nev. Rev. Stat. §
598.0915, which provides that it is a "deceptive practice" to:

- a. Knowingly passes off goods or services for sale or lease as those of another person;
 - b. Knowingly makes a false representation as to the source, sponsorship, approval or certification of goods or services for sale or lease;
 - c. Knowingly makes a false representation as to affiliation, connection, association with or certification by another person;
 - d. Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations or quantities of goods or services for sale or lease or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith; and
 - e. Knowingly makes any other false representation in a transaction.

- 1 86. As alleged herein, Defendant engaged in unlawful practices in violation of the Nevada Deceptive
2 Trade Practices Act §§ 598, *et seq.*, in that he made false representations in connection with the
3 Panda Show.
4
- 5 87. That as a result of Defendant's actions, Plaintiffs have been damaged in excess of \$10,000.00.
6
- 7 88. As such, Plaintiffs are entitled to recover punitive damages in an amount to be determined at
8 trial.
9
- 10 89. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to
11 prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.
12
- 13 90. As a result of Defendant's actions, Plaintiffs are entitled to injunctive relief in order to prevent
14 any further harm to their property.
15

NINTH CLAIM FOR RELIEF
(Intentional Interference with Business Operations)

- 16 91. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
17 allege and aver as follows:
18
- 19 92. Defendant has intentionally interfered with Plaintiffs business relationship with consumers.
20
- 21 93. Defendant intentionally interfered with Plaintiffs' business operations when he altered the list
22 of managers with the Nevada Secretary of State, filed for a Federal trademark with the USPTO
23 in his own name, and began advertising for a new Panda Show without the knowledge or consent
24 of his business partners.
25
- 26 94. As a direct and proximate result of the Defendant's conduct, Plaintiffs have suffered damages
27 in an amount in excess of \$10,000.00.
28
95. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to
prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.

1 96. As a result of Defendant's actions, Plaintiffs are entitled to injunctive relief in order to prevent
2 any further harm to their property.
3

4 **TENTH CLAIM FOR RELIEF**
5 ***(Declaratory Relief)***

6 97. Plaintiffs repeat and reallege each and every allegation as if fully set forth herein and further
7 allege and aver as follows:

8 98. Plaintiffs do hereby seek a declaratory judgment interpreting, reforming, and enforcing the terms
9 of the Panda Show Agreement.

10 99. A declaratory judgment from the Court is necessary to define the rights, duties and obligations
11 of the parties with respect to the above-mentioned documents.

13 100. Based on the allegations set forth herein, an actual and justiciable controversy presently exists
14 between Plaintiffs and Defendant.

15 101. Without declaratory relief, Plaintiffs will continue to be harmed because, among other things,
16 Defendant will continue to deprive them of their rights and interests.

18 102. Plaintiffs ask the Court for a declaration that GPE is the sole owner of any and all federal
19 Trademarks related to the Panda Show and that Defendant has breached the Panda Show
20 Agreement.

21 103. Plaintiffs also ask the Court for a declaration that Wong is responsible for 40% of all losses
22 related to the Panda Show, pursuant to the Panda Show Agreement.

24 104. As a result of Defendant's actions, Plaintiffs have been forced to retain counsel in order to
25 prosecute this action and are entitled to recovery of reasonable attorney's fees and costs herein.

26 /.../.../
27

28 /.../.../

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that judgment be entered against Defendants herein as follows:

1. For appropriate compensatory relief in excess of \$10,000.00, in an amount to be determined at trial;
 2. For declaratory relief as pled in this Complaint, including but not limited to an order declaring that GPE is the sole owner of any and all federal Trademarks related to the Panda Show, that Defendant has breached the Panda Show Agreement, and that Wong is responsible for 40% of all losses related to the Panda Show, pursuant to the Panda Show Agreement.
 3. For punitive damages, in an amount to be determined at the time of trial;
 4. For an award of reasonable attorney's fees and costs incurred herein; and
 5. For any such other relief this Honorable Court deems just and appropriate under the circumstances.

Dated this 29th day of May, 2015.

CALLISTER & ASSOCIATES

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